

### REMARKS

The Office Action mailed February 5, 2009, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

### CLAIM STATUS

Claims 1-3 and 5-16 are pending in this Application. By this Amendment, claims 1, 9, 10, 14 and 15 have been amended. Claim 16 has been cancelled.

### Claim Rejections Under 35 USC § 103

Claims 1-3 and 5-15 stand rejected under 35 USC § 103(a) as being unpatentable over US Patent 5288581, Ziolo et al. in view of US Patent 6207335, Michel et al. This rejection is respectfully overcome.

This rejection is the same rejection levied in the Office Action dated June 17, 2008. In response to the June 17, 2008 Office Action, Applicants submitted a declaration by Edward Michel speaking to the unexpected superior results of the instantly claimed invention and its superiority in contrast to the prior art. In the instant Office Action, on page 5, the Office states as follows:

The 132 declaration under 37 CFR 1.132 filed 10/09/2008 is insufficient to overcome the rejection of claims 1-3 and 5-15 based upon Michel as set forth in the last Office action because: the declaration is not commensurate in scope. The declaration shows the use of double hydroxide salts and the specific organic anion as a charge controlling agent in a toner. The examiner asserts that claims 1 and 18 is drawn to a process of adding the charge control to an

electrophotographic toner, electrophotographic developer, powder, powder coating material, electret material or a chargeable material in an electrostatic separation process. Claim 10 is drawn to a composition comprising a charge transport material, as described by the declaration, but is not limited to a toner. Claim 10 is drawn to an electrophotographic toner, powder, powder coating material.

In response to the Office's position that such declaration is insufficient, Applicants have amended the claims to recite a process for controlling the charge of an electrophotographic toner. All reference to an electrophotographic developer, powder, powder coating material, electret material or a chargeable material in an electrostatic separation process has been stricken from the claims.


In view of thereof, it is respectfully submitted the declaration previously submitted is now commensurate in scope with the claims. On this basis, Applicants respectfully request reconsideration and withdrawal of the rejection.

Claim 16 stands rejected under 35 USC § 103(a) as being unpatentable over US Patent 5288581, Ziolo et al. in view of US Patent 6207335, Michel et al. as applied to claim 8 above, and further in view of US Pub. 2002/0098435, Rohr et al. By this Amendment, claim 16 has been cancelled.

In view of the above, it is respectfully contended that the 35 USC § 103 rejections have been overcome. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejections.

In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,

  
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